

1  
2  
3  
4  
5  
6  
7           **UNITED STATES DISTRICT COURT**  
8           **DISTRICT OF NEVADA**  
9

10           DARREL R. ESCALANTI,  
11                  Petitioner,  
12           vs.  
13           BRIAN E. WILLIAMS, *et al.*,  
14                  Respondents.

15  
16           Case No. 2:14-cv-01212-JCM-CWH

17  
18           **ORDER**

19           This is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254, by a  
20 Nevada state prisoner.

21           Neither a filing fee nor an application to proceed *in forma pauperis* was submitted with the  
22 petition. When filing an action pursuant to 28 U.S.C. § 2254, a petitioner must either submit the  
23 \$5.00 filing fee for habeas petitions or an application to proceed *in forma pauperis*.

24           Due to the lack of an *in forma pauperis* application or filing fee, the present action will be  
25 dismissed without prejudice to the filing of a new petition in a new action with a pauper application  
26 with all required attachments. It does not appear from the papers presented that a dismissal without  
27 prejudice would result in a promptly-filed new petition being untimely. In this regard, plaintiff at all  
28 times remains responsible for calculating the running of the limitations period as applied to his case  
and properly commencing a timely-filed habeas corpus action.

1           **IT THEREFORE IS ORDERED** that this action is **DISMISSED WITHOUT**  
2 **PREJUDICE** to the filing of **a new petition in a new action.**

3           **IT IS FURTHER ORDERED** that the clerk of the court shall send petitioner two copies of  
4 an *informa pauperis* application form for a prisoner, one copy of the instructions for the same, two  
5 copies of a blank 28 U.S.C. § 2254 habeas petition form, and one copy of instructions for the same.  
6 The clerk shall also send petitioner a copy of the petition submitted at ECF No. 1.

7           **IT IS FURTHER ORDERED** that petitioner may file a new petition in a new action, but he  
8 may not file further documents in this action.

9           **IT IS FURTHER ORDERED** that the clerk of the court shall enter judgment accordingly.

10           Dated July 29, 2014.

12             
13           

---

UNITED STATES DISTRICT JUDGE

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28